

Colt Industries



Colt Industries Inc
430 Park Avenue
New York, New York 10022
212/980-3500

October 19, 1971

Arizona Corporation Commission
Phoenix, Arizona 85007

In re: Colt Industries Operating Corp Merger

Gentlemen:

Please be advised that the Articles of Merger between Colt Industries Operating Corp and Bayway Terminal Corporation, Holley Inc. Carburetor, Carolox Company, Technik Incorporated, Mickey Thompson Speed & Custom, Inc., Fastcut Tool Company, H. & H. Wilson, Inc., Machinery Trading Corporation of California, Haber Industries, Inc., Bowling Green Manufacturing Company, Paris Manufacturing Company and Holcarb Publications, Inc. make no change whatsoever in the Articles of Incorporation of Colt Industries Operating Corp and therefore do not in any way amend said articles of incorporation.

Very truly yours,

Paul J. Evangelist
Assistant Secretary

Letter re publication of merger

PLAN AND AGREEMENT OF MERGER dated as of October 20, 1971, by and among COLT INDUSTRIES OPERATING CORP, a Delaware corporation ("CIOC"), BAYWAY TERMINAL CORPORATION, a New Jersey corporation ("Bayway"), HOLLEY INC. CARBURETOR, a Michigan corporation ("Holley"), CAROLOX COMPANY, a North Carolina corporation ("Carolox"), TECHNIK INCORPORATED, a New York corporation ("Technik"), MICKEY THOMPSON SPEED & CUSTOM, INC., a California corporation ("Thompson"), F. TCUT TOOL COMPANY, a Michigan corporation ("Fastcut"), H. & H. WILSON, INC., a California corporation ("Wilson"), MACHINERY TRADING CORPORATION OF CALIFORNIA, a California corporation ("MTC"), HABER INDUSTRIES, INC., a Michigan corporation ("Haber"), BOWLING GREEN MANUFACTURING COMPANY, a Kentucky corporation ("Bowling"), PARIS MANUFACTURING COMPANY, a Tennessee corporation ("Paris"), and HOLCARB PUBLICATIONS, INC., a Michigan corporation ("Holcarb").

The Board of Directors of each of CIOC, Bayway, Holley, Carolox, Technik, Thompson, Fastcut, Wilson, MTC,

Haber, Bowling, Paris and Holcarb (the "Constituent Corporations") has deemed it advisable for the benefit of that corporation and for the benefit of its stockholder that Bayway, Holley, Carolox, Technik, Thompson, Fastcut, Wilson, MTC, Haber, Bowling, Paris and Holcarb (the "Merging Corporations") be merged into CIOC (the "Surviving Corporation") on the terms and conditions herein set forth and has approved this Plan and Agreement of Merger (the "Agreement").

The Constituent Corporations are duly organized and validly existing as corporations under the laws of the states indicated below, having been incorporated on the dates and under the names indicated below, and having on the date hereof authorized capital stock consisting of the number of shares of Common Stock with the par values indicated below of which the number of shares indicated below are issued and outstanding and entitled to one vote per share:

<u>Corporation</u>	<u>State and Date of Incorporation</u>	<u>Name under which Incorporated</u>	<u>Authorized Capital Stock (Consisting of (Common Stock))</u>	<u>Par Value</u>	<u>Shares of Common Stock Issued and Outstanding</u>
CIOC	Delaware Apr. 28, 1964	Fairmorco Corporation	10,000	\$1	1,000
Bayway	New Jersey Dec. 17, 1954	Bayway Terminal Corporation	200	No Par	200
Holley	Michigan Dec. 11, 1917	Holley Kerosene Carburetor Company	250,000	\$4	218,215
Carolox	North Carolina May 9, 1961	Carolox Company	100,000	\$1	50,000
Technik	New York Jan. 7, 1959	Technik Incorporated	200	No Par	100
Thompson	California Apr. 30, 1968	Mickey Thompson Speed & Custom, Inc.	100,000	\$1	8,771
Fastcut	Michigan Aug. 8, 1955	Fastcut Tool Company	50,000	\$1	5,044
Wilson	California Jan. 2, 1961	Orientronics	25,000	\$1	12,750
MTC	California Jun. 26, 1961	Larkin Machinery Company	2,000	\$100	300
Haber	Michigan Oct. 28, 1964	Weber Precision, Inc.	15,000	\$10	5,486
Bowling	Kentucky Jan. 9, 1951	Bowling Green Manufacturing Company	3,000	\$100	1,000
Paris	Tennessee Dec. 20, 1948	Paris Manufacturing Company	2,000	\$100	1,000
Holcarb	Michigan Jan. 4, 1935	Chandler-Groves Company	100	\$10	100

CIOC was qualified to do business in the following jurisdictions on the dates indicated: Michigan--May 14, 1964, New York--May 8, 1964, California--May 8, 1964, Tennessee--May 11, 1964, Kentucky--May 11, 1964, North Carolina--May 12, 1964, New Jersey--May 8, 1964.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein contained and for the purpose of describing the terms and conditions of the merger of the Merging Corporations into the Surviving Corporation (the "Merger"), the method or mode of carrying the same into effect, the manner and basis of causing the shares of the Merging Corporations to constitute shares of the Surviving Corporation or of converting or exchanging the shares of the Merging Corporations into or for shares, bonds, obligations or other securities of the Surviving Corporation and such other details and provisions as are deemed necessary and desirable, the parties hereto have agreed, and do hereby agree, subject to the terms and conditions herein set forth, as follows:

ARTICLE I

1.01. The Merger. The "Effective Date of the Merger" shall be the later of (1) 12:00 midnight on October 31, 1971, or (11) the date on which (a) this Agreement

shall have been filed pursuant to Section 251(c) of the General Corporation Law of the State of Delaware, Section 450.52 of the General Corporation Act of the State of Michigan, Section 4119 of the General Corporation Law of the State of California, and Section 271.470 of the General Corporation Law of the Commonwealth of Kentucky, (b) certificates of merger shall have been filed pursuant to Section 14A:10-7 of the Business Corporation Act of the State of New Jersey and Section 907 of the Business Corporation Law of the State of New York, and (c) articles of merger shall have been filed pursuant to Section 48-10.03 of the General Corporation Law of the State of Tennessee and Section 55-109 of the Business Corporation Act of the State of North Carolina. At the Effective Time of the Merger, the Merging Corporations shall be merged into the Surviving Corporation; the separate existence of the Merging Corporations shall cease; and the Surviving Corporation shall continue to exist under the name "Colt Industries Operating Corp" by virtue of and shall be governed by the laws of the State of Delaware.

1.02. Stockholder Action. This Agreement shall be submitted to the sole stockholder of each of the Constituent Corporations for adoption or approval by it.

1.03. Effect of Merger. At the Effective Time

of the Merger:

(a) The Surviving Corporation shall possess all the rights, privileges, powers, immunities, purposes and franchises, as well of a public as of a private nature, and shall be subject to all the duties, liabilities, restrictions and disabilities of each of the Merging Corporations.

(b) All and singular, the rights, privileges, immunities, powers and franchises, as well of a public as of a private nature, of each of the Merging Corporations; all real, personal or mixed property, tangible or intangible, and all assets of each of the Merging Corporations; all debts due on whatever account to each of the Merging Corporations, including subscriptions for shares and all other choses in action; and all and every other interest, of or belonging to any of the Merging Corporations shall be taken and deemed to be transferred to and vested in the Surviving Corporation, without further act or deed.

(c) All property, rights, privileges, powers and franchises, and all and every other interest shall be thereafter as effectually the property of the Surviving Corporation as they were of the several and respective Merging Corporations, and the title to any real estate,

shareholder, director or officer thereof may be enforced, prosecuted, settled or compromised as if the Merger had not taken place, or the Surviving Corporation may be proceeded against or substituted in its place and any judgment rendered against any of the Merging Corporations may be enforced against the Surviving Corporation.

(e) At any time or from time to time after the Effective Time of the Merger, as the Surviving Corporation shall deem necessary, the last acting officers or any of them of the respective Merging Corporations shall, in the name of the respective Merging Corporations, execute and deliver all such proper deeds, assignments, confirmations, assurances and other instruments and do all other things as the Surviving Corporation may deem necessary, proper or desirable in order to (i) vest, perfect, confirm or ratify the Surviving Corporation's title to and possession of all property, assets, rights, privileges, powers, franchises, and immunities, (ii) to evidence the fact that the separate existence of the respective Merging Corporations has ceased and (iii) to otherwise carry out the purposes of this Agreement.

(f) In furtherance of the foregoing, all corporate acts, plans, policies, approvals and authorizations of

the stockholder, Board of Directors, committees elected or appointed by the Board of Directors, officers or agents of the respective Merging Corporations which were valid and effective immediately prior to the Effective Time of the Merger shall be taken for all purposes as the acts, plans, policies, approvals and authorizations of the Surviving Corporation and shall be as effective and binding on the Surviving Corporation as the same were with respect to the respective Merging Corporations. The employees and agents of the respective Merging Corporations shall become the employees and agents of the Surviving Corporation and shall continue to be entitled to the same rights and benefits, and subject to the same limitations, qualifications, rights of amendment, termination, reassignment or changes in assignment, reserved to the respective Merging Corporations, which they enjoyed and were subject to as employees and agents of the respective Merging Corporations.

All the above shall be effected as provided by the laws of Delaware, Michigan, New York, California, North Carolina, New Jersey, Tennessee, and Kentucky.

ARTICLE II

2.01. The Capital Stock of the Constituent Corporations. At the Effective Time of the Merger, the issued and then outstanding shares of Common Stock of each of the Merging Corporations shall not be converted or exchanged but shall be surrendered and canceled, and shares of the Surviving Corporation shall not be issued in exchange therefor; and the shares of the Surviving Corporation shall not be changed.

ARTICLE III

3.01. Certificate of Incorporation of Surviving Corporation. At the Effective Time of the Merger, the Certificate of Incorporation of CIOC in effect immediately prior to the Effective Time of the Merger shall become and continue to be the Certificate of Incorporation of the Surviving Corporation.

3.02. By-laws of Surviving Corporation. At the Effective Time of the Merger, the By-laws of CIOC as in effect immediately prior to the Effective Time of the Merger shall become and continue to be the By-laws of the Surviving Corporation.

3.03. Board of Directors of Surviving Corporation. At the Effective Time of the Merger, the persons constituting the Board of Directors of CIOC immediately prior to the

Effective Time of the Merger shall continue to be the directors of the Surviving Corporation and shall hold office until the annual meeting of stockholders of the Surviving Corporation next following the Effective Time of the Merger and until their successors shall have been elected and shall have qualified. If at the Effective Time of the Merger a vacancy shall exist on the Board of Directors, such vacancy may be filled in the manner provided by the By-laws of the Surviving Corporation as in effect at and after such time.

3.04. Officers of the Surviving Corporation. At the Effective Time of the Merger, the officers of CIOC in office immediately prior to the Effective Time of the Merger shall become and continue to be the officers of the Surviving Corporation, each to hold office in accordance with the By-laws of the Surviving Corporation as in effect at and after the Effective Time of the Merger.

ARTICLE IV

4.01. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such counterpart.

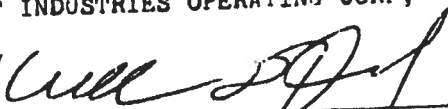
IN WITNESS WHEREOF, the President or Vice President and a majority of the Board of Directors of each of the

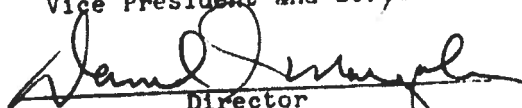
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Constituent Corporations have executed and entered into this Agreement pursuant to Section 251(b) of the General Corporation Law of the State of Delaware, Section 450.52 of the General Corporation Act of the State of Michigan, Section 271.470 of the General Corporation Law of the Commonwealth of Kentucky and Section 4118 of the General Corporation Law of the State of California and the Secretary or Assistant Secretary of each of the Constituent Corporations has attested the seal of each such Constituent Corporation impressed hereon.

COLT INDUSTRIES OPERATING CORP,

by


Vice President and Director



Director


Director

CORPORATE SEAL

[Seal]

Attest:


Assistant Secretary

A majority of the Board of
Directors

BAYWAY TERMINAL CORPORATION,

by

Frank P. Wangel
President and DirectorWill [Signature]
DirectorWill E. C. Keefe
Director

CORPORATE SEAL

[Seal]

Attest:

Will E. C. Keefe
SecretaryA majority of the Board of
Directors

HOLLEY INC. CARBURETOR,

by

Frank P. Wangel
President and DirectorWill [Signature]
DirectorWill E. C. Keefe
Director

CORPORATE SEAL

[Seal]

Attest:

Will E. C. Keefe
SecretaryA majority of the Board of
Directors

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CAROLOX COMPANY,

by Frank Wangelach
President and Director
Will E. Kiefer
Director
Donald E. Kiefer
Director

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kiefer
Secretary

A majority of the Board of
Directors

TECHNIK INCORPORATED,

by Frank Wangelach
President and Director
Will E. Kiefer
Director
Donald E. Kiefer
Director

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kiefer
Secretary

A majority of the Board of
Directors

MICKEY THOMPSON SPEED & CUSTOM, INC.,

by

Frank E. Gungelhoff
President and DirectorWilliam J. Gungelhoff
DirectorDonald E. Gungelhoff
DirectorA majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Donald E. Gungelhoff
Secretary

FASTCUT TOOL COMPANY,

by

Frank E. Gungelhoff
President and DirectorWilliam J. Gungelhoff
DirectorDonald E. Gungelhoff
DirectorA majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Donald E. Gungelhoff
Secretary

H. & H. WILSON, INC.,

by *James H. Wangel*
President and Director
Carl S. O'Keefe
Director

Carl S. O'Keefe
Director

A majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Carl S. O'Keefe
Secretary

MACHINERY TRADING CORPORATION
OF CALIFORNIA,

by *James H. Wangel*
President and Director
Carl S. O'Keefe
Director

Carl S. O'Keefe
Director

A majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Carl S. O'Keefe
Secretary

HABER INDUSTRIES, INC.,

by *Donald E. Kufe*
President and Director

W. H. [Signature]
Director

Donald E. Kufe
Director

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kufe
Secretary

A majority of the Board of
Directors

BOWLING GREEN MANUFACTURING COMPANY,

by *Donald E. Kufe*
President and Director

W. H. [Signature]
Director

Donald E. Kufe
Director

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kufe
Secretary

A majority of the Board of
Directors

PARIS MANUFACTURING COMPANY,

by

Donald E. Kiefe
President and Director

Will [Signature]
Director

Donald E. Kiefe
Director

A majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kiefe
Secretary

HOLCARB PUBLICATIONS, INC.,

by

Donald E. Kiefe
President and Director

Will [Signature]
Director

Donald E. Kiefe
Director

A majority of the Board of
Directors

CORPORATE SEAL

[Seal]

Attest:

Donald E. Kiefe
Secretary